

## **102 KAR 1:035. Employment by retired members; calculation of the Daily Wage Threshold and Average Daily Rate.**

RELATES TO: KRS 161.500, 161.605

STATUTORY AUTHORITY: KRS 161.310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310 requires the Board of Trustees of the Teachers' Retirement System of the State of Kentucky to promulgate administrative regulations for the administration of retirement system funds and for the transaction of business. This administrative regulation establishes procedures necessary to administer KRS 161.605, concerning income limitations required for employment by retired members.

Section 1. Definitions. (1) "Average Daily Rate (ADR)" means the average daily rate of pay a retired member returning to work receives over a fiscal year as calculated under this administrative regulation.

(2) "Daily Wage Threshold (DWT)" means the limitations of seventy-five (75) percent or sixty-five (65) percent of a member's last annual compensation measured on a daily rate as prescribed in KRS 161.605(1) and (2).

(3) "Extra Service" means service that is not part of, and is provided outside of, the service provided for Position Contract Days and does not earn service credit. It includes, service for which compensation is paid from the district's supplemental or extra service salary schedules, coaching, professional development, and summer school.

(4) "Position Contract Days" means days during the regular school or fiscal year that are part of the normal school calendar and are performed during regular school hours that, standing alone without any other worked service, earn service credit in TRS. It includes service performed on these days through full-time employment as defined in KRS 161.220(21), part-time employment, and substitute teaching. It does not include extra service as defined by this section.

Section 2. To determine the DWT of a retiring member, TRS shall first divide the member's last annual compensation, as defined under KRS 161.220(23), by the number of Position Contract Days worked by the member immediately prior to the member's initial retirement that provided the member with one (1) full year of service credit. This number shall then be multiplied by either sixty-five (65) percent or seventy-five (75) percent pursuant to KRS 161.605(1) and (2), the product of which is the DWT.

Section 3. (1) The ADR shall be measured by adding the total annual compensation for all services performed by the retired member for the fiscal year and dividing that compensation over the number of Position Contract Days worked by the retired member. The total annual compensation for this calculation shall include all forms of remuneration and benefits, except for health insurance coverage generally provided to all eligible employees by the employer, reimbursement for travel expense at the rates approved for state employees, and professional dues. All remuneration of a retiring member returning to work shall be evaluated to determine whether his or her ADR exceeded the DWT for each fiscal year worked. If the ADR exceeds the DWT, the amount of that excess shall be multiplied by the Position Contract Days worked by the retired member for that year to determine the total reduction in the retired member's benefits required under KRS 161.605(6).

(2) Days worked in Position Contract Days shall be calculated on a full-time equivalent basis. Any day in which the retired member works less than a full day as defined by school district or employer policy shall be measured on a pro rata basis so that the retired member is ac-

credited with a partial day based on the ratio of the hours worked during the day divided by the district's or employer's definition of a full day. Full and partial days worked shall be added to calculate the full-time equivalent number of days worked.

(3) Compensation earned in extra services will be included in total annual compensation for ADR calculation purposes if accompanied with any Position Contract Days worked by the retired member. Extra service shall earn only salary credit.

(4) If extra service is not accompanied by Position Contract Days worked by the retired member, no salary or service credit will be awarded. The retirement contributions forwarded to TRS on that service shall be refunded to the member at the completion of the fiscal year, and any salary credit awarded to the member for that service shall be removed. (TRS-4(a); 1 Ky.R. 135; eff. 12-11-74; Am. 6 Ky.R. 682; eff. 8-6-80; 17 Ky.R. 2471; eff. 4-5-91; 20 Ky.R. 2358; eff. 3-23-94; 30 Ky.R. 1824; 2017; eff. 3-18-2004; Crt eff. 2-27-2020.46 Ky.R. 1580, 2222; eff.5-5-2020)